

JUDGE ENGELMAYER

13 CV 0132

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RASHAAN J. DOCTOR,

Plaintiff,

-against-

COMPLAINT

Jury Trial Demanded

CITY OF NEW YORK; Police Officer RASAU ROMEO, Shield No. 21166; and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.
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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
2013 JAN -8 PM 4:01

PARTIES

6. Plaintiff Rashaan J. Doctor (“plaintiff” or “Mr. Doctor”) is a resident of Bronx County in the City and State of New York.

7. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

8. Defendant Police Officer Rasau Romeo, Shield No. 21166 (“Romeo”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Romeo is sued in his individual and official capacities.

9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

11. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

12. At approximately 7:15 p.m. on October 20, 2012, plaintiff was lawfully walking within the vicinity of Lenox Avenue and 120th Street in New York, NY.

13. Plaintiff was walking with his cousin, Shelton Green.

14. Plaintiff had been taking pictures of the downtown area.

15. As plaintiff was walking and looking through his lense, two police officers walked near to plaintiff and said, "Stop, you're under arrest."

16. Plaintiff, who had not committed any crimes, thought that the officers must have been talking to someone else, so he continued to walk.

17. One of the defendant officers yelled, "I told you to stop, you're under arrest."

18. Plaintiff then stopped and turned around and asked the officers why he was under arrest.

19. Plaintiff's cousin then threw his cup on the ground.

20. One of the defendant officers told plaintiff that they were being arrested for possessing an open container of alcohol.

21. Plaintiff insisted that he was not drinking alcohol.

22. The officer then asked plaintiff, "You want to be a smart alec?" and told

him to pick up his cousin's cup.

23. Plaintiff complied, and picked up and threw away the cup.

24. The officers then walked up to plaintiff, elbowed and choked him.

25. Defendants then placed plaintiff under arrest, despite the fact that they had no probable cause to do so.

26. Officers eventually transported plaintiff to the 28th precinct.

27. At the precinct the officers falsely informed employees of the New York County District Attorney's Office that they had observed plaintiff Obstructing Governmental Administration.

28. At no point did the officers observe plaintiff commit any crime.

29. For over twelve hours plaintiff was kept in a filthy cell at the precinct that was covered with urine and feces, and was denied access to food and water.

30. Plaintiff's repeated requests for help were ignored.

31. From the precinct plaintiff was transported to Central Booking.

32. Plaintiff was eventually arraigned in New York County Criminal Court.

33. Plaintiff was forced to appear in court on two more occasions before all criminal charges were adjourned in contemplation of dismissal.

34. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to his reputation.

FIRST CLAIM
Unlawful Stop and Search

35. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

36. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion.

37. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages herein before alleged.

SECOND CLAIM
False Arrest

38. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

39. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

40. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
Unreasonable Force

41. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

42. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

43. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
First Amendment Retaliation

44. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

45. By their conduct, as described herein, and acting under color of state law to deprive the plaintiff of his right to freedom of speech under the First and Fourteenth Amendments, the individual defendants are liable for violation of 42 U.S.C. § 1983 which prohibits the deprivation under color of state law of rights secured under the United States Constitution. The individual defendants have violated plaintiff's First Amendment rights to speech by unlawfully denying his right to speak freely by subjecting him to false arrest and excessive force to deter the exercise of his First Amendment rights. Defendants' actions were taken in retaliation for plaintiff's exercising his First Amendment rights.

46. As a consequence of the individual defendants' actions, plaintiff has suffered violations of his First and Fourteenth Amendment rights to free speech. Plaintiff has fear and apprehension that he will, again, be subject to similar unlawful

acts by defendants done for the purpose of limiting and preventing his First Amendment-protected activities.

47. As a direct and proximate result of the individual defendants' unlawful actions, plaintiff has suffered damages including, physical, mental and emotional injury and pain, mental anguish, suffering, humiliation, embarrassment and loss of reputation.

FIFTH CLAIM
Failure To Intervene

48. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

49. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

50. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

51. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: January 3, 2013
New York, New York



Robert Marinelli
299 Broadway, 15th Floor
New York, New York 10007
(212) 822-1427
robmarinelli@gmail.com

Attorney for plaintiff